

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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|--------------------|---|------------------------|
| JEFFERY E. WALKER, |) | |
| |) | |
| Plaintiff(s), |) | No. C 08-0802 CRB (PR) |
| |) | |
| vs. |) | ORDER |
| |) | |
| JOHN DOE, et al., |) | |
| |) | |
| Defendant(s). |) | |

Plaintiff, a prisoner at the California Medical Facility, filed a pro se complaint for damages under 42 U.S.C. § 1983 alleging that on December 18, 2005, while he was at the San Francisco County Jail, two correctional officers slammed him against a window, hit him in the face, forcibly dragged him to his cell and called him derogatory names. Plaintiff only named Doe defendants.

Per order filed on March 14, 2008, the court dismissed the complaint with leave to amend within 30 days. The court explained that plaintiff must identify the Doe defendants through discovery and file a first amended complaint naming them and setting forth specific facts as to how each defendant violated his rights.

Plaintiff responded with a discovery request for the court. Per order filed on April 15, 2008, the court explained that plaintiff must conduct his own discovery. The court cannot do it for him. But in the interest of justice, plaintiff was afforded 60 days to identify the Doe defendants through discovery and file a first amended complaint.

1 Plaintiff filed a request for additional time to conduct discovery to identify
2 the Doe defendants. Per order filed on July 2, 2008, plaintiff was granted 60
3 additional days to identify the Doe defendants and file a first amended complaint.
4 The clerk was also instructed to send him a blank subpoena.

5 Plaintiff has filed an amended complaint which simply identifies one of
6 the Doe defendants as James, rather than John, Doe. This will not do. He also
7 requests additional time because he has not yet received a response to his
8 subpoena. In the interest of justice, plaintiff will be afforded a final opportunity
9 to identify the Doe defendants and file a first amended complaint. The amended
10 complaint is DISMISSED WITH LEAVE TO AMEND and file a second
11 amended complaint within 60 days of this order.

12 The second amended complaint must be simple and concise and must
13 include the caption and civil case number used in this order and the words
14 SECOND AMENDED COMPLAINT on the first page. Plaintiff may not file
15 partial amendments to the original complaint. He must file an amended
16 complaint naming all defendants and specifically alleging how each violated his
17 federally protected rights. Claims and defendants not included in the amended
18 complaint will not be considered by the court. See King v. Atiyeh, 814 F.2d 565,
19 567 (9th Cir. 1987).

20 Failure to file a proper second amended complaint within the designated
21 time will result in the dismissal of this action.

22 SO ORDERED.

23 DATED: Sept. 11, 2008

24 
25 CHARLES R. BREYER
26 United States District Judge